

CITY ATTORNEY  
2012 MAY 10 AM 9:57

1 AMELIA ANN ALBANO, CITY ATTORNEY  
(SBN 103640)  
2 CAROL A. HUMISTON, SR. ASST. CITY  
ATTORNEY, (SBN 115592)  
3 OFFICE OF CITY ATTORNEY  
CITY OF BURBANK  
4 275 East Olive Avenue  
P. O. Box 6459  
5 Burbank, CA 91510  
Tel: (818) 238-5707 Fax: (818) 238-5724  
6

7 LINDA MILLER SAVITT, SBN 94164  
E-mail: LSavitt@brgslaw.com  
8 BALLARD ROSENBERG GOLPER & SAVITT, LLP  
500 North Brand Boulevard, 20<sup>th</sup> Floor  
9 Glendale, CA 91203  
Tel: (818) 508-3700, Fax: (818) 506-4827  
10

11 RONALD F. FRANK (SBN 109076)  
E-mail: rfrank@bwslaw.com  
12 ROBERT J. TYSON (SBN 187311)  
E-mail: rtyson@bwslaw.com  
13 BURKE, WILLIAMS & SORESENSEN, LLP  
444 S. Flower Street, 24<sup>th</sup> Floor  
14 Los Angeles, CA 90071  
Tel: 213-236-0600 Fax: 213-236-2700  
15

16 Attorneys for Defendant City of Burbank  
17

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 COUNTY OF LOS ANGELES

20 WILLIAM TAYLOR,  
21 Plaintiff,  
22 v.  
23 CITY OF BURBANK and  
DOES 1 through 100, inclusive,  
24 Defendants.  
25  
26  
27  
28

Case No. BC 422252  
Assigned to: Hon John L. Segal, Dept. 50

**DECLARATION OF LINDA MILLER  
SAVITT IN SUPPORT OF  
DEFENDANT CITY OF BURBANK'S  
MOTION FOR NEW TRIAL OR  
ALTERNATIVE JNOV**

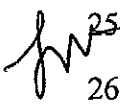
DATE: June 6, 2012  
TIME: 8:30 a.m.  
DEPT: 50  
Trial Date: March 5, 2012  
Action Filed: Sept. 22, 2009

1 I, LINDA MILLER SAVITT, declare:

2 1. I am an attorney at law duly licensed to practice before all of the Courts of the  
3 State of California and am a partner at the law firm of Ballard Rosenberg Golper & Savitt, LLP,  
4 counsel of record for defendant CITY OF BURBANK ("City") in the above-referenced matter. I  
5 am the lawyer at my firm with primary responsibility for the trial of this matter. I have personal  
6 knowledge of the facts contained in this Declaration, and if called as a witness I could and would  
7 testify competently to these facts under oath.

8 2. Together with Ronald Frank of the Burke, Williams & Sorensen LLP firm, I was  
9 trial counsel for the City in this matter. Among other things, my role as trial counsel included the  
10 handling of questions to prospective jurors in the *voir dire* process, to participate with Mr. Frank  
11 in decisions on the exercise of peremptory challenges and challenges for cause as to prospective  
12 jurors, handling most of the jury instruction arguments, and delivery of the defense closing  
13 argument.

14 3. The fact that a prospective juror had a prior negative contact with a law  
15 enforcement official or agency, and the use of force or weapons, were all material to me and my  
16 client in assessing potential bias to be ferreted out during *voir dire*. The Court asked prospective  
17 jurors about these topics prior to attorney *voir dire*, and then again when replacement prospective  
18 jurors were seated following excusals of several jurors for cause or upon exercises by both sides  
19 of peremptory challenges. A number of prospective jurors were forthcoming and responsive to  
20 the Court's *voir dire* questions about negative contacts with law enforcement agencies and one  
21 specifically availed himself of the Court's offer to speak privately if a truthful response might  
22 have been personally embarrassing or personal. Neither of the two jurors who are the subject of  
23 the juror misconduct issues raised in the City's Motion for New Trial responded to the negative  
24 contact question, nor did either avail themselves of the private sidebar option.

 25 4. Identifying prospective jurors who might tend to have an initial impression in  
26 favor of the adverse party is a key goal of mine during jury selection. That goal is inhibited if a  
27 juror does not reveal information about himself or herself during jury selection that might tend to  
28 bias him or her against my client. Judges (including the Court in this case) often seek to learn

LA #4814-1653-1727 v1

- 1 -

1 from a prospective juror during *voir dire* whether they "could wait until you hear all the evidence  
2 from both the plaintiff and defendant before making up your mind" for similar reasons. I echoed  
3 the "keeping an open mind" theme in my *voir dire* questioning. Also, I requested that the Court  
4 give CACI 100 in this case, which admonishes jurors: "It is important that you keep an open mind  
5 throughout this trial." The Court read CACI 100 to the jury before opening statements.

6 5. During the evening of March 14, 2012, Mr. Frank advised me that he discovered  
7 that CACI 2405 had been inadvertently or mistakenly omitted from the defense list of proposed  
8 jury instructions. While I had been reviewing the jury instructions and submitting additional ones  
9 to the Court during the trial, I too did not realize until that evening that CACI 2405 was missing  
10 from the defense list. Since I was working on my closing argument, Mr. Frank offered his office  
11 to prepare a proposed instruction CACI 2405. Had the Court agreed to give this Judicial Council  
12 approved instruction, I would have used it in my closing argument to elaborate on the good cause  
13 and reasonable grounds for belief defenses and would have placed a copy of the instruction on the  
14 Elmo as I did for other instructions during closing argument.

15 6. At no time before or during trial, nor at any time before I learned of various post-  
16 trial juror investigation efforts, did I know or have any reason to know or suspect that trial jurors  
17 no. 6 and 7 had criminal records. By failing to reveal their prior negative contacts with law  
18 enforcement before the trial, trial jurors no. 6 and 7 deprived me of the ability to ask them follow-  
19 up questions regarding those contacts, to exercise possible challenges for cause, or to exercise one  
20 of the remaining peremptory challenges I had during *voir dire*. The defense only exercised 2  
21 peremptory challenges to the 12 seated jurors, plus peremptories exercised to the alternate  
22 candidates.

23 I declare under penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct.

25 Executed on May 4, 2012, at <sup>Los Angeles</sup> Glendale, California.

26 

27 LINDA MILLER SAVITT  
28